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Third report of the Secretary-General on the United Nations Operation in Burundi

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1577 (2004) of 1 December 2004, by which the Council extended the mandate of the United Nations Operation in Burundi (ONUB) until 1 June 2005 and requested me to report every three months on the situation in Burundi, the implementation of the Arusha Peace and Reconciliation Agreement for Burundi and the execution of the Operation's mandate. This report covers major developments since my report of 15 November 2004 (S/2004/902).

II. Transitional process

2. The six-month extension of the transitional period, which began on 1 November 2004, has allowed the Burundian parties to advance the peace process despite some delays in the electoral calendar. Since 1 November, the Transitional Government has promulgated a number of important laws, including legislation creating the National Defence Force and the National Police service. The President also promulgated a law to establish a National Truth and Reconciliation Commission, and decreed a limited right of assembly during the campaign on the constitution. While the referendum on the constitution will be conducted in accordance with the 1993 national election law, a new electoral code and a communal law must be adopted before the subsequent elections are held.

Debate on the post-transitional constitution

3. Some Burundian political leaders continued to call for further discussions on the text of the draft constitution before a referendum on the post-transitional constitution is held. These leaders were joined by President Domitien Ndayizeye, who on 6 January 2005 sought and promptly received the Constitutional Court's interpretation that would allow him to submit a revision of the constitution to referendum directly or through the National Assembly and Senate. The President addressed the Court to determine his capacity to directly amend articles 301, 302 and 303 of the draft constitution. It should be noted that article 301 prohibits transitional presidents from running in the first presidential election; article 302 requires that both the National Assembly and the Senate elect the first president of

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the post-transitional period; and article 303 provides for the co-option of an additional 18 to 21 members of the National Assembly under specific circumstances.

4. In reaction to the President's announced intention to amend the constitution, the President's party, FRODEBU, called for an endorsement of the constitution in the referendum, but opposed any pre-referendum amendments. On 12 January 2005, the FRODEBU Parliamentary Group issued a statement stressing that the proposed amendments would be inconsistent with the Arusha Agreement. The largest former armed group, CNDD-FDD (Nkurunziza), also voiced its opposition, issuing a statement in which it accused President Ndayizeye of trying to delay elections. CNDD-FDD (Nkurunziza) further warned that a "return to war" remained an option. On 17 January, 11 political parties (including FRODEBU) issued a joint communiqué condemning the President's attempts to amend the constitution.

5. On the other hand, the Vice-President's party, UPRONA, supported the President, advocating strongly for an amendment to the draft constitution. In response to the 11-party communiqué of 17 January, the President of UPRONA held a press conference on 20 January, in which he attributed the impasse to divisions within the predominantly Hutu G-7 parties, and called upon them to reach a common position. He reiterated the UPRONA stance that the draft constitution should be renegotiated.

6. During that period, my Special Representative for Burundi, Carolyn McAskie, met with President Ndayizeye on numerous occasions, as well as with other leaders to discuss the proposed constitutional amendments. My Special Representative sought to impress upon the parties the importance of adhering to the Arusha Agreement and its implementation, as envisaged and agreed by the signatories, and supported by the Regional Initiative, the African Union and the international community.

7. Regional leaders also played an important role in addressing this situation. On 17 January 2005, the Deputy President of South Africa and Facilitator of the peace process for Burundi met in Kampala with the Chairman and Vice-Chairman of the Great Lakes Regional Peace Initiative on Burundi, Presidents Museveni of Uganda and President Mkapa of the United Republic of Tanzania, to discuss the situation in Burundi. The Facilitator travelled on 25 and 26 January to Bujumbura, where he conveyed a message from the Region to all parties against the amendment of the constitution before the referendum and reminded them of their obligations under the Arusha Agreement.

8. Following a period of uncertainty and mounting national, regional and international dissatisfaction, President Ndayizeye announced on 4 February that he would no longer seek a constitutional amendment. The President's decision was welcomed by CNDD-FDD (Nkurunziza) and FRODEBU, among others, although UPRONA expressed dissatisfaction. In this regard, three Tutsi-dominated parties, UPRONA, RADDES, and PARENA, have since called upon voters to vote against the constitution in the referendum.

Electoral process

9. It should be recalled that on 16 October 2004, the National Independent Electoral Commission (CENI) published a timetable for the referendum and

elections that was endorsed by the Transitional Government and the Regional Initiative. According to that timetable, the referendum should have been held on 26 November 2004, to be followed by *colline*, communal, legislative and Senate elections from 9 February to 23 March 2005. The process would have culminated with the indirect election of the President by Parliament on 22 April 2005. Citing operational difficulties, CENI has twice postponed the date of the referendum, to 22 December 2004 and to 28 February 2005. CENI has yet to announce a revised calendar for the national elections.

10. Despite slippages in the electoral calendar, there has been some significant progress in the preparation for the referendum and elections during the reporting period. The armed political parties and movements registered as political parties, allowing for their participation in the referendum and subsequent elections. Voter registration commenced on 20 November 2004, with extensive logistical support mobilized by ONUB, including the transport of registration and electoral materials from Bujumbura to all 17 provinces. The registration of voters surged, following a slow start, prompting CENI to extend the process by an additional day until 30 November. Enrolment percentages were high and ranged from 60 to 90 per cent at the provincial level. In total, 3,134,116 Burundians have registered to vote.

11. The processing of voter registration cards, the publication of voter lists, including the appeals process, proved to be time-consuming and a logistic challenge. ONUB, the United Nations Development Programme (UNDP) and the World Food Programme (WFP) assisted CENI with additional information technology hardware, generators and technical advice to meet these challenges. On 14 January 2005, CENI posted the voter registration lists. A 10-day appeals and challenges period followed and was successfully concluded on 23 January, which has allowed for the publication of finalized lists. The printing of voter cards began on 18 February. Since that date, ONUB has been supporting CENI with the transport of electoral materials to its provincial headquarters from where CENI provincial commissions transport the materials to the communes and polling stations. ONUB also provided technical assistance to CENI in its civic education media campaign.

12. In terms of resource mobilization, I am pleased that donors have rallied to support the process. By early 2005, the UNDP Trust Fund had received $12,799,000. Further contributions have been pledged by Belgium and the European Union, and Japan is exploring a possible contribution. Important assistance was also secured from the Governments of South Africa and Rwanda, which provided ballot boxes and voting booths, and computers, respectively. An estimated $23 million will be required for the entire electoral process, including the referendum.

13. Once the referendum is concluded, the main challenge will be the enactment of the electoral code and the communal law, without which the national elections cannot be held. On 2 February, a spokesperson for President Ndayizeye indicated that the two texts had been finalized and were ready for submission to the Council of Ministers, before being introduced into the National Assembly and the Senate. By 21 February, the draft laws were under discussion. Both the electoral code and the communal law are expected to come under close scrutiny by parliamentarians in the context of future power-sharing arrangements. The discussion and enactment of those bills must conclude expeditiously to avoid further delays in the electoral calendar. The Transitional Government should also finalize its plans to ensure a minimum level of security for the elections.

Contacts with FNL

14. On 25 January 2005, FNL (Rwasa) announced its willingness to restart peace talks with the Transitional Government, the first such indication since the Government ended formal negotiations after FNL claimed responsibility for the Gatumba massacre of 13 August 2004. Responding to the FNL approach, President Ndayizeye's spokesperson said that the Government would not refuse talks. At the same time, FNL (Rwasa) approached my Special Representative through an intermediary, and indicated its preparedness to negotiate with the Transitional Government. While mediation of the Burundian peace process remains the responsibility of the Regional Initiative, the United Nations is prepared to extend to the Region and Facilitator any assistance that will help achieve a comprehensive ceasefire and sustainable peace in Burundi.

Implementation Monitoring Committee

15. The Implementation Monitoring Committee, established pursuant to the Arusha Agreement, met three times in the reporting period. Its twenty-third regular session was held on 22 and 23 November 2004. The Committee noted the advances made in the peace process. In particular, it called upon the Government to adopt laws creating a new national defence force and security service; register armed political movements as political parties; and begin the demobilization, disarmament and reintegration programme on schedule.

16. During its twenty-fourth regular session, on 17 December 2004, the Implementation Monitoring Committee expressed its concern at a report by the Joint Ceasefire Commission, which detailed the continued human rights violations perpetrated against civilians by Burundian Armed Forces and CNDD-FDD (Nkurunziza) forces. The Committee also expressed concern at the political manoeuvres surrounding the draft constitution and called upon all parties to respect the Arusha Agreement. It further called upon the Government to finalize an electoral code and a communal law and to collaborate on issues of military rank harmonization within the context of the overall security sector reform/ demobilization, disarmament and reintegration programme.

17. At its twenty-fifth regular session, held on 24 and 25 January 2005, the Implementation Monitoring Committee welcomed the progress in the peace process, including the publication of voter lists, the promulgation of National Defence Force and National Police service laws, and the registration of the former armed political movements as political parties. Nonetheless, it remained concerned about President Ndayizeye's attempts to amend the draft constitution before the referendum. In a letter to the President, the Committee cautioned strongly against violation of the Arusha Agreement. The Committee recalled previous recommendations on the electoral process, and in particular the need for CENI to complete a new election timetable, and to respect the 28 February 2005 date for the referendum. Members of the Committee examined the new law on the National Truth and Reconciliation Commission, noting the need to avoid overlapping jurisdictions between the Commission and the proposed international judicial commission of inquiry. The Committee held two special meetings in February to examine matters pertaining to the return of Burundian refugees, other vulnerable populations, land reform and political prisoners.

III. Regional dimension

18. I attended the first summit of the International Conference on the Great Lakes Region, held at Dar es Salaam, United Republic of Tanzania, on 20 November 2004. Following the adoption of the Dar es Salaam Declaration of Principles on Peace, Security, Democracy and Development in the Great Lakes Region, the 11 core countries of the Conference began working together to transform the Principles into concrete action with a view to ensuring that the root causes of the region's instability, and the linkages among the individual conflicts, were addressed in a comprehensive manner. Towards that end, a regional Inter-Ministerial Committee was set up to prepare draft protocols and programmes of action in the four thematic areas of the Conference. The first meeting of the Inter-Ministerial Committee was held at Kigali on 17 and 18 February 2005, and additional meetings are planned prior to the convening of a second summit of Heads of State and Government of the core countries later in 2005.

19. ONUB has continued to monitor developments in the region that might impact on the Burundi peace process, in particular the situation in the eastern section of the Democratic Republic of the Congo. While there has been no significant escalation in infiltrations by foreign-armed groups into Burundi, ONUB military observers have reported continued incidents of armed robbery and cattle theft in Bubanza and Bujumbura Rurale provinces by armed elements that reportedly retreat across the border into the Democratic Republic of the Congo. Personnel of ONUB and the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) continued to liaise closely, conducting regular meetings at Bukavu, Democratic Republic of the Congo, and Bujumbura. The first strategic-level inter-mission meeting took place at Kinshasa from 10 to 12 February, with the participation of my Special Representatives for the Democratic Republic of the Congo and Burundi. The next strategic-level inter-mission meeting is scheduled to take place at Bujumbura in May 2005.

20. On 3 January 2005, the Transitional Government issued a communiqué in which it expressed its intention to normalize relations with the Democratic Republic of the Congo. The Foreign Minister of Burundi visited Kinshasa from 10 to 12 February 2005, resulting in the conclusion of a bilateral agreement on the normalization of relations and cooperation on security matters between the two States. In the light of that positive development, I have requested my Special Representative for Burundi to pursue through discussions with the respective Governments and MONUC a plan of action that will augment security along the joint Burundi/Democratic Republic of the Congo border.

21. A disturbing development during the reporting period was the appearance in Bujumbura Mairie of two inflammatory tracts on 14 January and 1 February 2005. Both tracts were similar to those that circulated before the massacre at Gatumba in August 2004, which called for the extermination of the Congolese Banyamulenge refugees in Burundi.

22. ONUB immediately brought this matter to the attention of the Transitional Government and increased day and night patrols in areas where the Banyamulenge refugees are located. There are about 3,000 Banyamulenge refugees in Burundi housed in two camps in Mwaro and Muyinga, as well as some 80 families who reside in a former transit site in Bujumbura Mairie.

23. The Transitional Government has also taken steps to enhance security in those areas. On 24 January, my Special Representative issued a public statement, which emphasized the danger of incitement to hatred against any community. On 26 January, a meeting between ONUB and MONUC took place at Bukavu to share information and coordinate activities in relation to the protection of the Banyamulenge refugees. In coordination with the Office of the United Nations High Commissioner for Refugees (UNHCR), ONUB continues to liaise closely with local authorities, the Gendarmerie and the National Defence Force in monitoring the situation. It should be noted, however, that the Transitional Government has yet to make public its findings into the massacre of Banyamulenge refugees that took place in Gatumba on 13 August 2004.

Security Council mission

24. On 24 and 25 November 2004, a Security Council mission to Central Africa visited Burundi for the fourth time in as many years. The visit was welcomed by the Burundian parties and sent a strong message to them on the continued commitment of the international community to the peace process in Burundi. While the mission in general expressed satisfaction with the progress achieved on the basis of the principles of dialogue, power-sharing and reconciliation, it also encouraged its Burundian interlocutors to conclude the transitional process expeditiously.

IV. Military and security developments

Security situation

25. The security situation in Burundi has remained generally stable. However, armed clashes between the FAB/CNDD-FDD and FNL (Rwasa) continued in the provinces of Bujumbura Rurale, Bubanza and Cibitoke. The Burundian Armed Forces conducted numerous targeted offensive operations, during which civilians suspected of being FNL combatants and others accused of banditry were reportedly mistreated, arrested and detained. ONUB has continued to express serious concern that a large number of civilians detained by the security forces are routinely deprived of justice and denied fundamental human and legal rights.

26. On 23 January 2005, the Governor of Bubanza province and his bodyguard were killed when his entourage was stopped by a group of unidentified assailants. The same group was believed to have ambushed a car carrying Burundian parliamentarians travelling on the same Bujumbura-Bubanza road. The Government of Burundi accused FNL (Rwasa) of being responsible, which the armed group categorically denied. ONUB issued a statement on 25 January 2005 deploring the murder of the Governor and subsequently investigated the incident but was unable to ascertain the motive or its perpetrators.

27. On 1 February 2005, four ONUB military observers in Rutana province were robbed at gunpoint when a group dressed in military uniform entered their residence. The attack is of serious concern and the Transitional Government must see that the necessary measures are taken to ensure the safety of United Nations personnel.

28. In November 2004, the Transitional Government renewed its efforts to reduce the level of criminality, with limited results, and began in the same month to discuss

a draft law that proposed to shorten considerably the length of a trial period for perpetrators caught in the act of committing violent crimes. In response to international concerns that the law would contravene international human rights conventions and treaties to which Burundi is a party, the law was withdrawn and is being redrafted.

Small arms

29. The proliferation of weapons within the country remains an issue of concern. From 27 to 29 January 2005, a consultant on conflict prevention and small arms proliferation visited Burundi on behalf of the UNDP Small Arms and Demobilization Unit to assess the proliferation of weapons among the civilian population, with a view to developing community disarmament programmes with local authorities. The Small Arms Reduction Programme secretariat of the UNDP Bureau for Crisis Prevention and Recovery has been developing a Great Lakes regional approach, with renewed focus on Burundi. In cooperation with ONUB and the Small Arms Reduction Programme, the Small Arms and Demobilization Unit is planning to set up programmes in Burundi by September 2005.

30. According to the report of the Group of Experts on the Democratic Republic of the Congo of 25 January 2005 (S/2005/30), some 300,000 guns are currently in the hands of the various military groups engaged in the peace process in Burundi, as well as militias, local defence forces and insurgents. The Group's recommendation for the creation of a small arms component and the establishment of a baseline data and weapons inventory for Burundi is therefore welcomed. However, additional resources would be required to establish such a component.

Mine action

31. During the reporting period, the Transitional Government considered legislation for the creation of a national humanitarian mine action commission and a national humanitarian mine action coordination centre. The Swiss Foundation for Mine Action and Danish Church Aid are expected to begin training activities in March 2005 in order to operationalize their projects by April-May 2005. A United Nations integrated support project is being developed to assist in the Transitional Government's effort to assume full responsibility for national mine action coordination and demining.

Security sector reform

32. On 31 December 2004, President Ndayizeye promulgated laws outlining the creation, organization, composition and functioning of the new National Defence Force and the new National Police service. The National Defence Force Chief of Staff and a deputy were named on 12 January 2005, followed on 28 January with the nomination of the Director-General of the National Police and his deputy.

33. Broadly compatible with the Arusha Agreement, both laws provide the structural framework for the respective establishment of a defence force and a police service. However, considerable work remains to define their operational modalities and to enact the necessary legal instruments and regulations. ONUB will continue to work with the parties and donors in defining an overall strategy for security sector reform.

34. In the meantime, following the successful training and integration of 1,800 joint Burundian Armed Forces/CNDD-FDD security units at Tenga at the end of 2004, an agreement was reached between the Government and the armed political parties and movements on 13 January 2005 to commence the training and integration of an additional 2,700 armed political parties and movements and Burundian Armed Forces members at the Tenga training centre, which will be funded by a number of Governments, in particular the Government of the Netherlands.

Disarmament, demobilization and reintegration

35. Despite initial delays, I am pleased to report that there has been progress on demobilization, disarmament and reintegration during the reporting period. On 2 December 2004, President Ndayizeye launched the disarmament and demobilization process in Muramvya. As of 4 February 2005, 4,441 armed political parties and movements and ex-Burundian Armed Forces combatants — who will not be integrated into the security forces — had been disarmed and demobilized at three demobilization centres in Gitega, Bubanza and Muramvya. At each of the demobilization centres, the ex-combatants received elementary training to develop skills that will facilitate their social and economic reintegration, as well as financial assistance. ONUB and the World Bank Multi-Country Demobilization and Reintegration Programme continue to provide technical assistance to the Executive Secretariat of the National Commission for Demobilization, Reinsertion and Reintegration to improve the quality of its draft social reintegration programmes, which should be ready for publication later in 2005.

36. On 31 December 2004, President Ndayizeye signed a decree that consolidated the combatants of the six armed political parties and movements located across 12 pre-disarmament assembly areas into five cantonment sites, two for CNDD-FDD (Nkurunziza) in Mabanda (Makamba province) and Gashingwa (Muramvya province); two sites for the armed political parties and movements in Kibuyi (Bubanza province) and in Buramata (Bubanza province); and one site for integration into the National Police service in Rugazi (Bubanza province). This process has allowed for the transformation, and subsequent registration, of the armed political parties and movements into political parties which began in January 2005.

37. By 20 February 2005, 12,950 ex-combatants, predominantly from CNDD-FDD and ex-Burundian Armed Forces, entered the cantonment sites in preparation for their relocation to a demobilization centre. The general conditions in the cantonment sites are poor and will require vigilance on behalf of the Ministry of Defence to ensure that appropriate assistance is both available and equitably distributed. On 22 February 2005, the Joint Ceasefire Commission, the Executive Secretariat and ONUB met to address specific concerns pertaining to the conditions at the Buramata cantonment site. In subsequent meetings, all parties agreed to begin the initial demobilization of ex-combatants from Buramata. ONUB will continue to press the authorities to fulfil their obligations, while also providing appropriate assistance.

38. The remaining armed political parties and movements have yet to commence their full-scale transfer from the pre-disarmament assembly area to the cantonment sites, citing a number of unresolved issues, including the harmonization of ranks, appointment of their representatives in the National Defence Force high command,

approval of an integration plan, and the return to barracks by the Burundian Armed Forces. In the meantime, a small advance team representing the armed political parties and movements moved into the Kibuyi cantonment site, following a meeting between the Minister for Defence and my Special Representative on 16 February 2005.

39. In an agreement reached between ONUB, the Executive Secretariat and the Burundian Armed Forces, the return to barracks of Burundian Armed Forces soldiers will occur simultaneously with the movement of the armed political parties and movements to the cantonment sites. At the sites, their security will be monitored by ONUB military observers, in coordination with the joint security units and joint liaison teams composed of members from all parties. Negotiation over an integrated command structure and enunciation of an integration plan must conclude swiftly in order to ensure the integration of the armed political parties and movements into the national security structures.

40. In a letter dated 27 December 2004, the International Service of the German Agency for Technical Cooperation requested the signing of a new convention with the European Commission (EC) and WFP to regularize the existing arrangements and allow for sufficient funding to continue with the food distribution to the armed political parties and movements. ONUB is presently engaged in discussions with the German Agency for Technical Cooperation, EC and the Transitional Government to ensure a continued food supply and distribution.

41. It would be recalled that the first phase of demobilization of child soldiers was completed in 2004, during which UNICEF and its partners demobilized 2,260 Burundian Armed Forces and *Gardiens de la paix* child soldiers through the Child Soldiers National Structure. The second phase of the child soldier demobilization commenced on 2 December 2004, and was completed by 31 December 2004. An additional 618 children from the six armed political parties and movements were demobilized and reintegrated with their families or are in community care.

42. While progress has been achieved, there remain unresolved issues that could delay the demobilization, disarmament and reintegration process. These include rank harmonization and the absence of a common operational plan for army integration. On 28 December 2004, the Tripartite Working Group on Rank Harmonization — comprising the Joint Ceasefire Commission, the Chiefs of Staff for Integration and ONUB — held a meeting after which it submitted recommendations to the Minister of Defence on rank harmonization. The harmonization of ranks must be concluded by the end of February to avoid delaying the demobilization and integration processes. The Transitional Government also needs to be more transparent regarding plans for the reintegration of former combatants to enable greater support by the international community.

Police

43. On 19 January 2005, the Minister of Public Security signed a paper entitled "Concept for the Integration of the Burundi National Police". Elaborated jointly by the Transitional Government and ONUB, the paper establishes a process and identifies the responsibilities of the different actors in the integration and transformation of the National Police. It also provides a basic framework within which donors can determine the level and nature of their assistance.

44. This paper envisages that the reform and integration of the National Police will take place in two phases. The first phase will focus on ensuring security during the elections, which is expected to be provided by both the national police and the defence forces. The second phase consists of various consolidation activities and long-term reform and capacity development initiatives.

45. During the first phase, ONUB civilian police should participate in a selection, vetting and screening committee, which has not been yet created, to identify candidates for integration into the national police and to assist in the training of their trainers. In this regard, ONUB began on 18 February a 10-day training-of-trainers course, which will comprise three intakes, each consisting of 70 Burundian civilian police trainers selected from government and armed political parties and movements officers. ONUB civilian police have also continued to provide advice to the Transitional Government on security during the elections, as well as to local police authorities in the provinces of Gitega, Ngozi Makamba, Muyinga and Bujumbura Mairie.

V. Deployment of the United Nations Operation in Burundi

46. As at 18 February 2005, the military strength of ONUB stood at 5,378 of the overall authorized strength of 5,650. The current strength includes 91 staff officers, 190 military observers deployed to 27 team sites, and infantry battalions from Pakistan (deployed to Cibitoke province), Ethiopia (Gitega and Muyinga), Nepal (Bubanza and Ngozi), South Africa (Bujumbura Mairie, Bujumbura Rurale, Muramvya, and Mwaro) and Kenya (Makamba) and an infantry company from Mozambique (Bujumbura Mairie).

47. Major operational activities of the ONUB military component have included monitoring the ceasefire agreements, assisting with the nationwide distribution of electoral material, monitoring the implementation of demobilization, disarmament and reintegration activities, including the transportation of armed political parties and movements ex-combatants from the pre-disarmament assembly areas to designated cantonment sites. The military component is also providing between 12 to 18 mission escorts daily to personnel from ONUB, United Nations agencies and programmes and non-governmental organizations, as well as to food convoys to the various assembly/cantonment sites throughout Burundi. ONUB units remain deployed and have increased patrols close to the refugee camps in Mwaro and Muyinga and the former transit site at Ngagara (Bujumbura Mairie) where Congolese Banyamulenge refugees are located.

48. A series of ONUB military operations during the reporting period were aimed at deterring foreign combatants from infiltrating the border, curtailing the flow of illegal weapons and assisting in the monitoring of the Democratic Republic of the Congo arms embargo, in coordination with MONUC. The military component also undertakes daily aerial reconnaissance and maritime patrols, for both monitoring and confidence-building purposes. ONUB has provided military and logistical assistance to MONUC in preparation for the onward deployment of two brigades to the Democratic Republic of the Congo through Bujumbura.

49. In November 2004, ONUB established its fourth regional office, in Ngozi. The deployment of ONUB civilian staff throughout the country was completed with the establishment in February 2005 of a fifth regional office, in Bujumbura Rurale.

These regional offices have enhanced ONUB assistance for the electoral process, demobilization, disarmament and reintegration, human rights monitoring, public sensitization campaigns, policing and corrections reform. They have also allowed ONUB to work in close partnership with civil society and community leaders.

50. Each regional office includes electoral, human rights, civilian police, civil affairs and public information personnel operating under the leadership of a regional coordinator. In addition, each office has an area of responsibility that follows provincial boundaries to ensure that there is no duplication of contacts with local authorities. Although the military zones of operation differ from the administrative areas used by the civilian component, ONUB has nonetheless sought to co-locate offices, maintaining an integrated mission approach and utilizing shared resources. In this connection, the planning for an integrated containerized headquarters on a greenfield site in Bujumbura is at an advanced stage. Once completed, it will consolidate ONUB presence in Bujumbura in one location.

51. In accordance with paragraph 10 of Security Council resolution 1545 (2004) of 21 May 2004, the Secretariat has been negotiating with the Transitional Government to conclude a status-of-forces agreement for ONUB. Following a comprehensive review of the comments of the Government of Burundi on the draft, the Office of Legal Affairs of the Secretariat is expected to dispatch a team to Burundi shortly to finalize discussions on the agreement.

VI. Human rights, rule of law and gender

52. As detailed in my previous report, extrajudicial murders and acts of violence committed against the civilian population by the Burundian Armed Forces and CNDD-FDD (Nkurunziza), CNDD (Nyangoma) and *Gardiens de la paix* continued, including looting of property, intimidation, extortion, illegal incarceration, ill-treatment of detainees, rape and torture. There are frequent reports of government and CNDD-FDD soldiers looting neighbourhoods during operations against FNL in Bujumbura Mairie and Bujumbura Rurale, sometimes detaining individuals suspected of collaborating with FNL for several days in violation of national legislation.

53. Access of civilians to local and international organizations increased significantly in comparison to the period preceding the arrival of ONUB. Nevertheless, both government and CNDD-FDD (Nkurunziza) soldiers have continued to deny access of ONUB military and human rights officers to specific areas and to military installations in Bujumbura Mairie and Bujumbura Rurale.

54. On 30 December 2004, a senior member of the Gendarmerie expressed concern regarding the behaviour of CNDD-FDD in Bujumbura Rurale and the fact that Burundian Armed Forces and CNDD-FDD commanders were unwilling to hold their soldiers accountable for their actions. Under the pretext of operating in a "state of war", human rights violations committed by those soldiers against the civilian population are seldom investigated.

55. In January 2005, the Minister of Public Security condemned the practice by the CNDD-FDD of operating "parallel administrations" in Bujumbura Rurale and said that CNDD-FDD soldiers guilty of violating the law would be sanctioned. Since January 2005, some CNDD-FDD leaders have admitted that their troops have

committed abuses against the civilian population and have asked ONUB to help address the problem. During the period, both the Burundian Armed Forces and CNDD-FDD authorized ONUB human rights officers to visit a number of military positions. The Burundian Armed Forces and CNDD-FDD must demonstrate their commitment to ensure that their soldiers respect international human rights and humanitarian law.

56. The number of incidents of sexual violence remains a serious concern. ONUB, the United Nations country team, civil society, women's groups and local and international non-governmental organizations continue to work together to enhance awareness, conduct public sensitization campaigns, and provide psychological, medical and legal assistance to victims. Advocacy work led by the Office for the Coordination of Humanitarian Affairs, and with the International Committee of the Red Cross and the United Nations Population Fund, led the Ministry of Health to endorse a specific medical protocol for victims of sexual violence applicable within each public health facility nationwide.

57. On 11 December 2004, United Nations personnel in Burundi, led by my Special Representative, joined local and international organizations in a march against sexual violence in Bujumbura, marking the conclusion of a 16-day nationwide campaign to stop sexual violence against women. Incidences of domestic violence, although believed to be high, remain almost entirely unreported.

58. Between November 2004 and February 2005 ONUB carried out assessments of Burundi's 11 overcrowded prisons. In collaboration with prison authorities, ONUB conducted medical and hygiene assessments in four prisons in Bujumbura, Gitega and Ngozi. ONUB is working with the authorities to reactivate a centralized database of all prisoners, including identification of minors and the elderly. ONUB is also working with judicial officials to expedite the trial of minors held in prolonged pre-trial detention.

59. ONUB further carried out systematic monitoring visits to police holding cells countrywide. Common irregularities raised with police officials included irregular registration, overcrowded cells, co-location of adults with minors, detention of individuals for extended periods and inadequate reasons for detention. A number of individuals were released as a result of ONUB visits and police at several locations made clear efforts to address concerns. Ill-treatment of detainees was documented at two locations in Bujumbura Mairie.

60. On 5 January 2005, President Ndayizeye promulgated a law that will create a national truth and reconciliation commission. The role of the commission and the proposed international judicial commission of inquiry (a report on which my assessment mission will shortly submit to the Security Council) will form an integral part of Burundi's response in tackling persistent and chronic impunity, once a consensus is reached on the way forward.

Gender issues

61. Over the reporting period, the gender mainstreaming efforts of ONUB continued to focus on the political participation of women, in particular supporting the 30 per cent quota allocated by the draft constitution for women's participation in State institutions. ONUB is also advocating for the inclusion of gender mainstreaming provisions in the electoral code and communal law. A global plan of

action to mobilize women for the elections has been finalized, and training provided in each province in association with the United Nations Development Fund for Women (UNIFEM) and local and international non-governmental organizations.

62. Within the Mission, ONUB has been working with relevant sections to ensure that the specific needs of women in cantonment areas are taken into consideration. In cooperation with UNIFEM, ONUB is conducting a needs assessment that will recommend to the Transitional Government areas of refinement required to ensure the appropriate demobilization of women associated with fighting forces, including appropriate reintegration strategies, and issues related to sexual and gender-based violence.

63. Gender awareness and mainstreaming is an integral part of ONUB induction training provided to ONUB civilian and civilian police personnel. A training-of-trainers session has also been devised for ONUB military personnel. The ONUB Gender Task Force, mentioned in my previous report, is now fully operational, and efforts are under way to establish an inter-agency coordination group for gender mainstreaming across the United Nations system in Burundi.

VII. Humanitarian situation

64. Throughout the reporting period, the protection of civilians in Bujumbura Mairie (Kanyosha commune) and Bujumbura Rurale (Mutambu and Nyabiraba communes), remained a cause for concern, with increased targeted killings, abductions, torture and kidnappings. All parties to the conflict are responsible for continuous forced taxation and misappropriation of land and houses.

65. During December 2004, approximately 25,000 residents, displaced since February 2004 from Kabezi commune, were encouraged by provincial authorities and the Burundian Armed Forces to return. On 30 December 2004, following clashes with FNL, the Burundian Armed Forces and CNDD-FDD (Nkurunziza) ordered approximately 13,000 people to vacate their homes in Kanyosha commune. The movement, although orderly, created substantial disruption for thousands of people, the last of whom returned to their homes in January 2005.

66. As of 6 February 2005, UNHCR reported the return of some 3,651 refugees to Burundi in 2005, either spontaneously or with United Nations assistance. Since 2002, when a total of 52,283 returnees were registered, the number has increased gradually each year, with 82,366 returning in 2003 and 90,327 in 2004. These returns reflect a growing confidence in the peace process and overall improvement in security conditions, particularly in the interior and the provinces bordering the United Republic of Tanzania.

67. The fragile food security and nutritional status of the population in the northern provinces of Kirundo, Muyinga and Ngozi required a strengthening of humanitarian programmes by United Nations agencies and non-governmental organizations. The fragile conditions were mostly the result of the combined effects of recurrent cycles of drought, low land productivity, poor quality of household diet and recurrent disease outbreaks. In cases where high malnutrition rates were initially reported, assessments later confirmed that nutritional surveillance and outreach had been limited following the integration of the national nutritional service into the provincial health system. This issue is being reviewed in

consultation with the national health authorities, the United Nations system and non-governmental organizations. Similar activities aimed at strengthening early warning and surveillance in the areas of food security and nutrition are being undertaken in Kayanza, Ruyigi and Cankuzo provinces.

VIII. Development, quick-impact projects and HIV/AIDS

68. The provision of development assistance in the post-transition period remains crucial in anchoring achievements made during the transition, while rebuilding a shattered economy and State infrastructure. In addition to the World Bank's poverty reduction strategy, the United Nations country team has articulated a United Nations development assistance framework for the period 2005-2008, taking into consideration the objectives stated in the Millennium Development Goals and the national development plans. Implementation of the development assistance framework will aim at creating a foundation from which sustainable peace and economic growth will enable all Burundians to break the vicious cycle of poverty and conflict. Burundi's conflict is linked to demographic pressures and lack of resources. As such, an important element of ensuring peace will be the elected Government's ability to provide economic opportunities for the population. At the same time, increased international donor disbursement will be required if Burundi is to emerge successfully from the transitional phase.

Quick-impact projects

69. During the reporting period, 29 community-based quick-impact projects in 12 provinces have received $417,476 in direct funding, of which 80 per cent of the funds have been disbursed. Through this programme, ONUB has rehabilitated 10 schools, benefiting over 7,000 teachers and students, provided new lodgings for some 400 orphans, improved three community health centres serving over 100,000 people and provided sports equipment and books to 53,000 pupils, housing to 108 families and clean water to 13,500 villagers. Small rural communities, including the Batwa community, have also benefited from the Mission's quick-impact projects. The envisaged construction of nine small bridges in Ruyigi and Bubanza provinces will improve access to basic community services and increase trade opportunities for four remote communities.

HIV/AIDS

70. There has been a significant increase in the number of Burundians living with HIV/AIDS that receive treatment with antiretroviral medication. By the end of December 2004, 5,050 Burundians were receiving treatment, compared with 1,200 at the beginning of that year. This fourfold increase means that 20 per cent of those in need of treatment now have access to it. While the Government and international partners have shown commitment, reinforced efforts are still required if Burundi is to achieve the 50 per cent access target it has set for the end of 2005.

IX. Code of conduct

71. My Special Representative has moved vigorously and proactively in enforcing my "zero tolerance" policy in relation to undesirable behaviour, abuse and sexual exploitation by United Nations personnel in Burundi. During the reporting period, the ONUB code of conduct officer, accompanied by my Special Representative and Force Commander, conducted briefings for all contingent commanders and senior officers. An extensive programme of regional office visits has commenced, complementing visits to each battalion and the induction training received by all civilian personnel upon their arrival to the Mission.

72. The work of the code of conduct task force in ONUB has focused on the identification, response and prevention of misconduct. In this regard, a revision of training materials and manuals used by ONUB military personnel has commenced to ensure they are clearly articulated and that these personnel comprehend the standards expected by the United Nations.

73. The few complaints of misconduct by United Nations personnel have been promptly addressed and are being investigated. If the Mission is to meet the high standards it has set itself, additional staffing may be required to strengthen the Mission's code of conduct and disciplinary capacity.

X. Public information

74. On 13 December 2004, the ONUB public information component commenced daily production of its bilingual (French and Kirundi) radio broadcasts, which are disseminated to one public and four private broadcasters, reaching 90 per cent coverage of the country. Radio programming continues to support the ONUB mandate, with a particular emphasis on demobilization and reintegration, and electoral and civic education. The Mission has also distributed, through its regional offices, copies of the draft constitution, electoral and civic education posters, and flyers, and has produced and staged theatre plays as part of ONUB community outreach. ONUB also hosts weekly press conferences to clarify to the Burundian public the work of the Mission and progress in the peace process.

XI. Observations

75. Despite delays in the electoral calendar, there has been continued progress in the peace process, especially with regard to the peaceful extension of the transition, preparation for elections, and the commencement of the demobilization, disarmament and reintegration process. As the transitional process enters its final and most crucial phase, key tasks must now be completed without delay, including the promulgation of an electoral code and communal law, the establishment of technically realistic dates in the electoral calendar and the commencement of meaningful military and police integration that address the concerns of all parties. The inclusion of FNL (Rwasa) in the peace process should also be carefully assessed in order to achieve sustainable peace and stability throughout Burundi.

76. While considerable progress has been achieved, political tensions in the country remain, affecting trust between the parties. Sectarian and individual interests continue to characterize and influence the peace process. I therefore

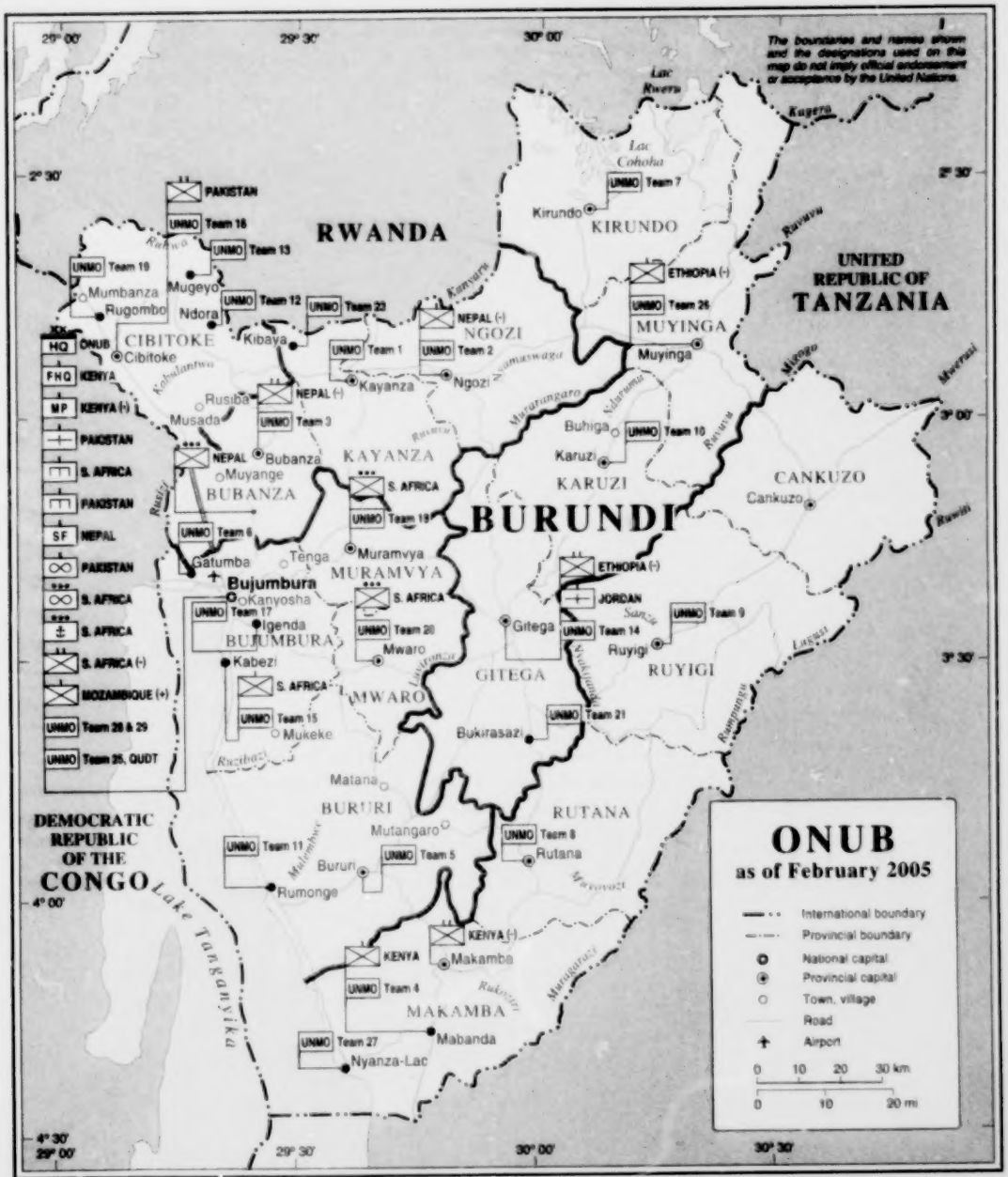
reiterate my call to all political and military leaders to stay the course, to respect the letter and spirit of the Arusha Agreement and to conclude the transitional process expeditiously and in good faith.

77. The Regional Initiative and the international community have from the start played a central role in supporting and pushing forward the peace process in Burundi, often navigating through complex and delicate elements of the transition. It is obvious that the sustainability of peace after elections will require the same, if not an increased, level of regional and international engagement to provide assurances for all sectors of Burundian society. I have instructed my Special Representative to explore with the Burundian parties and regional and international partners ideas on how the United Nations and the international community could continue to support the consolidation of peace after elections, and I intend to provide specific recommendations in my next report to the Security Council.

78. Similarly, a decisive donor response will be required in the post-transitional period to help stabilize the country at a time of increased returns of refugees and internally displaced persons, as well as the disarmament, demobilization and social reintegration of combatants and the integration of the armed forces. The link between conflict and development in Africa can be seen clearly in the case of Burundi, which is one of the most densely populated countries in Africa. A comprehensive approach to peacekeeping and peacebuilding in that country must therefore include a willingness on the part of the international community to complement the substantial investment in peacekeeping with a decisive input for sustainable development in order to avoid the re-emergence of conflict.

79. The extent of human rights violations in Burundi continues to be a source of deep concern. The culture of impunity, which has contributed to the conflict, must be addressed decisively, in order to lay the foundation of lasting peace and national reconciliation in the country. Renewed focus on this essential issue should be one of the priorities of the newly elected Government, once it is installed.

80. In conclusion, I would like to thank the Heads of State of the Regional Initiative, in particular its Chairman, and the Facilitator for their continued efforts to keep the transitional process firmly on track. I would also like to express my sincere appreciation to the men and women of ONUB, who, under the leadership of my Special Representative, have been working tirelessly for the sake of peace in Burundi. Equally, my appreciation goes to the staff of the United Nations system and the many bilateral and multilateral donors who also contribute in a major way to the peace process and the continuation of its progress.



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